

Lahontan Regional Water Quality Control Board

MINUTES November 4-5, 2015

Regular Meeting

California Regional Water Quality Control Board-Lahontan Region
Hampton Inn, Jackrabbit Room
2710 Lenwood Road
Barstow, CA 92311

Board Members Participating

Kimberly Cox, Chair, Helendale
Keith Dyas, Vice Chair, Rosamond
Amy Horne, Ph.D., Truckee
Don Jardine, Markleeville
Peter C. Pumphrey, Bishop
Eric Sandel, Truckee

Board Member Absent

Legal Counsel

Kimberly Niemeyer, Office of Chief Counsel, State Water Resources Control Board

State Board Staff

Gita Kapahi, Director, Office of Public Participation, State Water Resources Control Board
Lori Okun, Assistant Chief Counsel, Office of Chief Counsel, State Water Resources Control Board
Laura Drabandt, Office of Enforcement, State Water Resources Control Board

Regional Board Staff Participating

Patty Z. Kouyoumdjian, Executive Officer
Lauri Kemper, Assistant Executive Officer
Mike Plaziak, Sup. Engineering Geologist
Doug Smith, Sup. Engineering Geologist
Rich Booth, Senior Engineering Geologist
Cindi Mitton, Senior WRCE
Jehiel Cass, Senior WRCE

Bill Muir, Engineering Geologist
Todd Battey, Engineering Geologist
Anne Holden, Engineering Geologist
Lisa Dernbach, Senior Engineering Geologist
Alonzo Poach, Engineering Geologist
Cephas Hurr, WRCE
Sue Genera, Executive Assistant

REGULAR MEETING: Wednesday, November 4, 2015- 3:00 p.m.

To view the full Agenda and listen to the audio of this meeting [CLICK HERE](#)

INTRODUCTIONS

Kimberly Cox, Board Chair, called the meeting to order at 3:00 p.m. on November 4, 2015, and introduced Board Members.

Patty Z. Kouyoumdjian, Executive Officer, introduced Legal Counsel, State and Regional Water Board Staff.

1. PUBLIC FORUM

None.

PLANS AND POLICIES**2. Public Hearing - 2015 Triennial Review of the Water Quality Control Plan for the Lahontan Region (Basin Plan)**

Rich Booth, Senior Engineering Geologist in the Tahoe office, addressed the Board and gave a Power Point presentation highlighting the revisions made to the Basin Plan after the consideration of written comments, public comments and Board member comments presented during the scoping meeting held in September. Mr. Booth made recommendations for planning projects to be addressed over the next three fiscal years. Mr. Dyas asked if the embedded sediment standard for the Truckee River will consider embedded sediment into the TMDL. If a new embedded sediment standard for the Truckee River was developed, the new standard would be used to compare to the current conditions of embedded sediment in the Truckee River. If the current conditions were found not to meet the standard, then a new 303d-listing for the Truckee River would be needed, triggering a future TMDL for embedded sediment. Dr. Horne asked if projects are ever removed from the list. Proposed projects are evaluated, and if they are identified as not needed or if they are addressed under another program, then they are removed. She also asked if other Agencies have offered to assist in working on projects not on the workplan for the next three years. Mr. Booth stated that some Agencies have assisted to have non-resourced projects completed. Chair Cox asked if more projects could be added to the list before the next Triennial Review in 2018. If work on a project is placed on hold (due to weather or funding issues), staff resources could be used to work on a new project proposed by a Board member as directed by the Executive Officer.

Public Comment

Logan Olds, General Manager, Victor Valley Water Resource Agency, expressed his gratitude for the collaborative process of the Triennial Review.

Board Comments

Dr. Horne requested adding "Survey of surface waters to identify those we might want to consider creating in-stream flow requirements for the purposes of protecting beneficial uses" to the list of future projects. Katherine Rubin, representing LADWP, asked that public notice be given prior to implementation of the survey.

- **Motion:** Moved by Mr. Pumphrey, seconded by Mr. Dyas, to approve the Resolution as presented with the addition of the Survey recommendation by Dr. Horne. The Chair called for a Roll Call Vote and the motion **carried** per the following votes:

Ms. Cox	aye
Mr. Dyas	aye
Dr. Horne	aye
Mr. Jardine	aye
Mr. Pumphrey	aye
Mr. Sandel	aye

Click here to view adopted [Resolution No. R6T-2015-0051](#)

OTHER BUSINESS

3. **Minutes of the Regular Meetings of July 8-9, 2015, held in South Lake Tahoe, CA and September 16-17, 2015, held in Barstow, CA.**

- **Motion:** Moved by Mr. Dyas, seconded by Mr. Pumphrey, to approve the July Minutes as presented. The Chair called for a Roll Call Vote and the motion **carried** per the following votes:

Ms. Cox	aye
Mr. Dyas	aye
Dr. Horne	aye
Mr. Jardine	aye
Mr. Pumphrey	aye
Mr. Sandel	aye

Click here to view adopted [July Minutes](#)

- **Motion:** Moved by Mr. Dyas, seconded by Mr. Pumphrey, to approve the September Minutes as presented. The Chair called for a Roll Call Vote and the motion **carried** per the following votes:

Ms. Cox	aye
Mr. Dyas	aye
Dr. Horne	aye
Mr. Jardine	aye
Mr. Pumphrey	aye
Mr. Sandel	abstain

Click here to view adopted [September Minutes](#)

REPORTS

4. **Reports by Water Board Chair and Board Members**

Mr. Jardine reported on the Nevada Drought Conference hosted by Governor Sandoval September 21, 2015.

Dr. Horne provided information from a field trip hosted by Roger Bales (UC Merced) regarding the effect of forest management on water yield.

Chair Cox reported on the Water Quality Coordination Committee meeting she attended with Board Members Pumphrey and Horne on October 12-13 in Sacramento.

5. Executive Officer's Report

Ms. Kouyoumdjian, Executive Officer, presented the [November Written Report](#) and gave additional updates on:

- a. Dairy General Order stakeholder meeting scheduled for November 19, 2015;
- b. Water Board All Staff Training held in the South Lake Tahoe office October 28-29, 2015;
- c. Response letter to Los Angeles Sanitation District's request to use tertiary treated recycled water for unrestricted firefighting;
- d. Governor's Executive Order related to the reduction of biomass reserves in the mountains; and,
- e. N&M Dairy \$188,425 Settlement Agreement.

Note: The Board recessed for dinner from 4:58-7 p.m.

REGULAR MEETING: Wednesday, November 4, 2015 – 7:00 p.m.

INTRODUCTIONS

Kimberly Cox, Board Chair, called the meeting to order at 7:01 p.m. on November 4, 2015, and introduced Board Members.

Patty Z. Kouyoumdjian, Executive Officer, introduced Legal Counsel, State and Regional Water Board Staff.

ENFORCEMENT

6. Proposed Cleanup and Abatement Order to Pacific Gas & Electric Company for its Discharge of Chromium to Groundwater in the Hinkley Area

To view the full Transcript [CLICK HERE](#)

The Chair read the procedures for this public hearing and administered an oath to all parties expecting to testify. The Board Chair approved the submission of late comments from the Water Board Prosecution Team and Carmela Spasojevich, and noted previous ruling on objections by Prosecution Team and acceptance of late comment by Dr. Izbicki. On recommendation by the board's counsel, the Board Chair did not allow email by Sam Knott to be read into the record, as it was noted that it was a reiteration of previously submitted comments.

Hearing facilitator, Gita Kapahi, addressed the audience and reviewed the ground rules and noted materials available in the back of the room, including objections previously submitted by the Prosecution Team, along with the Board Chair's ruling; the late comments accepted into the record, including comments by Dr. Izbicki, Carmela Spasojevich, and the Prosecution Team; and pink change sheets. She explained the process for filling out the comment cards for those wishing to address the board.

Advisory Team member, Doug Smith, provided late additions and revisions to the Board. He then explained the changes the Advisory Team made to the second draft CAO since the public workshop held September 16, 2015.

Five key issues were addressed:

- a. Long-term replacement water
- b. Lower aquifer cleanup requirements
- c. Use of the word “uncertain” for northern plume
- d. Use of the word “interim” for maximum background levels
- e. Plume mapping requirements

Mr. Smith recommended that the Board adopt the Order and all nine attachments as presented with late additions/revisions.

Following the Advisory Team’s presentation, the Hinkley IRP Manager, PG&E, and the Prosecution Team, each had 20 minutes to summarize previously-submitted comments and provide oral comments on changes to the second draft CAO.

Public Comment

Daron Banks did not agree with the whole house replacement water requirement being removed from the CAO. He asked that the plume mapping requirements not change. Mr. Banks requested e-mails from the Prosecution Team to the Executive Officer. He would like to see the requirement for well spacing be maintained at 2,600 feet.

Roger Killian requested that the Board postpone final decision on the CAO until the Chromium background study is completed. He asked that the plume mapping requirements not change.

Elizabeth Hernandez asked that the new CAO be revoked or at a minimum postponed for six months.

Barbara Ray asked that the plume mapping requirements not change. She also felt that the CAO should be tied to the Chromium background study.

Penny Harper expressed her disappointment that PG&E is no longer required to maintain the whole house replacement water program and felt uncertain whether being exposed to untreated water would cause her harm. She felt that the plume mapping requirements should not be changed.

Daron Banks spoke again in support of requiring the mapping requirements to connect wells within 2,600 feet of one another and concerns regarding the western area and source area.

Chair Cox had counsel explain the process to the public for petitioning the final order and for obtaining copies of the Water Board’s emails. She then asked the Advisory Team if they had any recommended changes, based upon the information provided at the hearing. Mr. Smith made a correction to the [second Late Revision](#) submitted by the Advisory Team. Item 2 should have included changing 0.02 to 0.2 ppb on Attachment 8 (Monitoring and Reporting Program) section B. 3.

He made additional recommendations based on [the Prosecution Team’s late comment letter](#). Mr. Smith clarified that the Advisory Team is recommending accepting the changes in the Prosecution Team’s late comment that do not conflict with the other recommendation of the Advisory Team. The specific changes the Advisory Team recommends to accept are in yellow highlight below, underline for addition and ~~strikeout for deletion~~.

Finding 8.

1. For example, the 2014 3rd 2nd Quarter Report shows lower aquifer monitoring well MW-400G 92C containing 19.0 26 ppb Cr(VI).
2. According to PG&E's November 23, 2010, Work Plan for Evaluation of the Lower Aquifer, the chromium detected in this vicinity in the lower aquifer appears to be the result of contaminated upper aquifer water migrating into the lower aquifer in a localized area at the western edge of an aquitard (referred to as, 'the blue clay').
3. Later investigation and proposed remedial reports suggested the chromium migration pathway was via pathways within the thinning blue clay and/or around the blue clay edge near Mountain View Road (PG&E's August 1, 2011 Delineation of Chromium in Lower Aquifer; November 7, 2014 Plan for Enhancement of Lower Aquifer Remedy).

Finding 20.

Instead, this Order requires ongoing investigation of groundwater, including retaining the requirement for a minimum well spacing of 1,320 feet or less for the southern plume area, to provide sufficient resolution of chromium concentrations to determine plume migration and to judge successful remediation, and it requires plume boundary mapping consistent with the industry standard of best professional judgment by a California licensed Professional Geologist or Civil Engineer.

Finding 21.

However, as PG&E continues to buy properties and/or Department of Fish and Wildlife issues permits within endangered species habitat (expected in 2017), access status may change in the future, allowing further investigations where domestic wells are threatened.

Finding 34. a).

The plume is roughly 3 miles long by 2 miles wide, giving an average monitoring well density about one well per ten acres of land.

Finding 34 b).

For the northern disputed plumes, data from nearly 100 monitoring wells is used to define the extent of chromium in excess of the interim maximum background levels. The northern disputed plumes cover an area roughly 5 miles long and 1 mile wide, giving an average monitoring well density about one well per twenty acres of land. This well density is much less compared to the well density in the southern plume and it does not give There is insufficient evidence for the Water Board to link with substantial certainty the chromium to PG&E's historical discharge at this time.

As of 3rd Quarter 2014 monitoring results, the high concentrations in the north have not affected and do not appear to threaten any existing domestic supply well there are six domestic wells in the north having chromium concentrations in excess of the maximum background concentrations. According to PG&E, these domestic well owners have been provided reverse osmosis systems or refused such systems.

Finding 43.

However, consistent with the Olin Order, if future monitoring data indicate water in private supply wells within the domestic well sampling area defined in the "Groundwater Monitoring and Reporting Program, CAO No. R6V-2015-PROP", Attachment 8, exceed or are likely to exceed drinking water standards for Cr(VI) within one year and the detections are linked to PG&E's historical releases, this Order requires PG&E will be required to submit a workplans to provide outlining long-term replacement water supply options to such for affected wells (defined in finding 46), should any active private supply well later exceed the drinking water standard and become an affected well. The long-term replacement water workplan is required within 45 days of this Order being issued.

Order provision IV.A.3.iv.

iv. USGS Background Study – written technical information provided by the USGS such as the preliminary results report, or final report or other technical documentation containing analysis, interpretations and conclusions of chromium concentrations and sources of chromium.

Order provision IV.B

As access is gained over time, PG&E shall submit a workplan to install monitoring wells (for further plume definition) to the Water Board within 30 days of any change in land access status. Changes in land access status include, but are not limited to, being provided access to private property by the owner, acquisition of private property, and approval from agencies, such as Department of Fish and Wildlife, to lands that may be considered endangered species habitat or threatened species habitat. PG&E must use best professional judgment to assess if additional wells within those areas are necessary to define the plume boundary.

Order provision V

V. Southern Plume Containment

PG&E shall take all actions necessary to contain the southern chromium plume from migrating to other locations.

MRP page 3, section I. D. 1.

1. Quarterly sampling at all **single** monitoring wells and at **multi-depth** monitoring wells showing the **highest** hexavalent or total chromium detections greater than the interim maximum background levels as of 4th Quarter 2014. If four consecutive or four out of five samples in different sampling periods detect chromium in monitoring wells at decreasing concentrations that puts the well into one of the below categories, the Discharger may decrease the sampling frequency accordingly. In this instance, the new well showing the highest chromium concentrations greater than the interim maximum background levels is then moved to a quarterly sampling frequency.

MRP page 9, section III. B. 2.g.iv.

iv. USGS Background Study – written technical information provided by the USGS such as the preliminary results report, or final report or other technical documentation containing analysis, interpretations and conclusions of chromium concentrations and sources of chromium.

With regard to the deletion on page 3 of the MRP, Mr. Smith confirmed with PG&E at the hearing that this did not conflict with previously submitted consensus language that the Prosecution Team and PG&E had developed jointly.

Board Chair Cox then asked for Board Member Questions and Comments

Mr. Dyas had no questions or comments.

Mr. Sandel had no questions, and expressed that he was happy with the recommended changes, particularly removing the requirements regarding well density.

Board Member Sandel, Chair Cox, and Board Member Pumphrey asked the Advisory Team if the Order could require PG&E to produce two plume boundary maps. The first map would depict the plume boundary based on isoconcentration levels only and not delineate which chromium PG&E believes to be a direct result of their discharge. The second map would be the same map produced in the past, which draws the plume by connecting any monitoring wells within 2,600 feet of each other if their chromium concentrations exceed interim background. This map also allows PG&E to overlay a separate plume boundary of the chromium PG&E believes is a result of their discharge.

The Advisory Team stated that it is possible to require the two different mapping methods in the Order. However, the second map is not scientifically supported, is derived from an arbitrary number (2,600 feet), and could lead to litigation. The Advisory Team stated that a plume map based on isoconcentration would show the remediation efforts, be supported by science, is consistent with how similar contaminant plumes are mapped at other sites in the state and nation, and would be very similar to the maps previously produced. Mr. Smith described that the proposal by the Advisory Team was not just for PG&E to use best professional judgment, but to consider very specific requirements in the exercise of drawing the plume map.

Chair Cox asked Mr. Sullivan, PG&E representative, if PG&E agrees with the Advisory Team recommendation. Mr. Sullivan stated that if the Order is issued as recommended by the Advisory Team that it would not be arbitrary and capricious and that PG&E would produce a map that looked a lot like plume map drawn by the Advisory Team.

Chair Cox also questioned who would review plume maps submitted by PG&E, and Executive Officer Kouyoumdjian explained that the Water Board staff would no longer be separated into Prosecution and Advisory Teams. The project manager, Lisa Dernbach, who reports to Assistant Executive Officer Kemper, would review the mapping information.

Board Member Horne had a number of questions, including how the dispute resolution process would work; what PG&E would be required to do for "hot spots" above the MCL in the Northern disputed plume area; and why the ½ mile buffer was not continued. She noted that information provided as part of the Department of Public Health's justification for the MCL explained that the primary risk of exposure to hexavalent chromium was from ingestion, and not inhalation. After discussion of the mapping options, including discussion of requiring 4 additional quarters mapping consistent with the specific requirements that had been required in the past, Dr. Horne withdrew her proposal, and expressed satisfaction that the mapping with the isoconcentration contour lines will result in maps similar to what had been required in the past, and to require otherwise is not supported by science and law and could result in the Water Board exposing itself to litigation and that only slows the process down and she prefers to move forward.

There was no additional Board comment prior to the motion.

- **Motion:** Moved by Mr. Sandel, seconded by Dr. Horne, to approve the Order with late additions and revisions from the Advisory Team. Counsel identified those changes as identified in the pink sheets, and the twelve changes identified by Doug Smith of the Prosecution Team, which were based on the late comments provided by the Prosecution Team. The Chair called for a Roll Call Vote and the motion **carried** per the following votes:

Ms. Cox	aye
Mr. Dyas	aye
Dr. Horne	aye
Mr. Jardine	aye
Mr. Pumphrey	aye
Mr. Sandel	aye

Click here to view adopted [Cleanup and Abatement Order No. R6T-2015-0058](#)

Following the roll call vote, Board Member Dr. Horne read a statement she prepared, which can be found [HERE](#), which focused on the importance of the Hinkley community and its people in the healing process at this significant turning point in the case.

7. **PUBLIC FORUM**

None.

Note: The Board adjourned at 10:29 p.m.

REGULAR MEETING: Thursday, November 5, 2015 – 8:30 a.m.

INTRODUCTIONS

Kimberly Cox, Board Chair, called the meeting to order at 8:31 a.m. on November 5, 2015, and introduced Board Members.

Patty Z. Kouyoumdjian, Executive Officer, introduced Legal Counsel, State and Regional Water Board Staff.

8. **PUBLIC FORUM**

None.

REVISED WASTE DISCHARGE REQUIREMENTS

9. **Rosamond Community Services District Domestic Wastewater Treatment Facility/Reclamation Plant**

Cephas Hurr, WRCE in the Water Board's Victorville Office, presented this item to the Board. In his presentation, Mr. Hurr discussed the Order provisions, pond system upgrades, general plant overview, and recycled water regulations.

Public Comment

Ron Smith, Interim General Manager for the Rosamond Community Services District, thanked the Lahontan staff for their efforts in bringing this item forward to the Board.

- **Motion:** Moved by Mr. Dyas, seconded by Mr. Pumphrey, to approve the Order as proposed. The Chair called for a Roll Call Vote and the motion **carried** per the following votes:

Ms. Cox	aye
Mr. Dyas	aye
Dr. Horne	aye
Mr. Jardine	aye
Mr. Pumphrey	aye
Mr. Sandel	aye

Click here to view adopted [Board Order No. R6T-2015-0069](#)

PLANS AND POLICIES

10. Mojave Salt Nutrient Management Plan

This Item was postponed.

11. Status Update on the Mojave Basin Water Quality Trading Effort

This Item was postponed.

REPORTS

12. Monitored Natural Attenuation Evaluation and Application in the Lahontan Region

Linda Stone, Engineering Geologist in the Victorville office, presented the Draft Monitored Natural Attenuation Report to the Board. This Report incorporated written comments, public comments, and recommendations made by the Board at its September 2014 meeting.

Board Comments

Dr. Horne requested, when referring to institutional controls, the word “enforced” is included to improve the reliability and effectiveness of MNA. She asked for an additional paragraph giving examples of financial assurances to make the document clear.

Mr. Sandel asked what happens if a facility using MNA is sold. The responsible party would have to continue with MNA or enlist the new owner into the site cleanup and cost recovery program.

Mr. Pumphrey requested that institutional controls be included in the property deed and these institutional controls should follow property transfers.

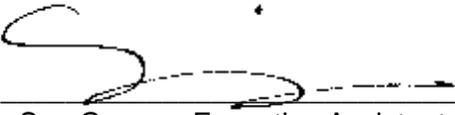
Chair Cox asked how assimilative capacity is addressed when using MNA and requested that this be discussed in the final draft of the Report. Mr. Pumphrey agreed with Chair Cox’s concern and asked if staff could coordinate with the State Board’s SGMA team as they work on developing groundwater sustainability plans. Dr. Horne stated that this issue is relevant to more than just our region. She felt this could be elevated through the State Board and to the Legislature.

13. **CLOSED SESSION**

None.

ADJOURNMENT

With no further business to come before the Board, the meeting adjourned at 9:25 a.m. on November 5, 2015.

Prepared by:  Adopted: 2-11-16
Sue Genera, Executive Assistant